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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/520,064

03/09/2005

Hendrik Middeljans

122217

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01/29/2009

OLIFF & BERRIDGE, PLC

P.O. BOX 320850

ALEXANDRIA, VA 22320-4850

EXAMINER

TENTONI, LEO B

ART UNIT

PAPER NUMBER

1791

MAIL DATE

DELIVERY MODE

01/29/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/520,064	Applicant(s) MIDDELJANS ET AL.	
	Examiner Leo B. Tentoni	Art Unit 1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 12-15, 17 and 18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Group I, claims 1-11 and 16 in the reply filed on 21 November 2008 is acknowledged. The traversal is on the ground(s) that the subject matter of the claims is sufficiently related that a thorough search for the subject matter of any one group of claims would encompass a search for the subject matter of the remaining claims, and the search and examination of the entire application could be made without serious burden. This is not found persuasive because the two groups of claims do not have the same or corresponding special technical feature and the claims of Group I are unpatentable over Okubo et al (JP 11061550 A) and Hutter et al (U.S. Patent 6,551,545 B1) and thus, these claims fail to define a contribution over the prior art. With respect to rejoinder, this applies when product claims are elected for prosecution.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 12-15, 17 and 18 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 21 November 2008.

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Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1-11 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Okubo et al (JP 11061550 A) in combination with Hutter et al (U.S. Patent 6,551,545 B1) for the reasons of record.

Response to Arguments

6. Applicant's arguments filed on 21 November 2008 have been fully considered but they are not persuasive.

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7. Applicant argues (pages 3 and 4) that Okubo et al does not describe that the (first) cooling medium substantially completely leaves the filament bundle on a side opposite an inflow side (citing also Figures 2 and 4 of Okubo et al). Examiner responds that the first cooling medium of Okubo et al issues from numeral 2 of the apparatus (see Figure 1 of Okubo et al) and this cooling medium flows across the filaments to a side opposite the inflow side. Note that Figures 2 and 4 of Okubo et al are directed to the second cooling medium of Okubo et al, which issues from numeral 4 of the apparatus (see Figures 1, 2 and 4 of Okubo et al).

8. Applicant argues (pages 5 and 6) that Hutter et al does not describe that the cooling medium substantially completely leaves the filament bundle on a side opposite an inflow side and thus, Hutter et al does not remedy the deficiencies of Okubo et al in this regard. Examiner responds that since Okubo et al teaches that the (first) cooling medium substantially completely leaves the filament bundle on a side opposite an inflow side (see above also), there is no deficiency in Okubo et al in this regard and thus, there is no deficiency in this regard for Hutter et al to remedy. Hutter et al teaches a second cooling zone wherein filaments are cooled through self-suction of a cooling medium, and one rationale for providing this passive cooling step in the process of Okubo et al would be to manufacture products (e.g., yarn) having uniform physical properties (note also that the motion or travel of the filaments in the process of Okubo et al

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provides a passive cooling by generating a suction effect to draw the cooling medium through the second cooling zone (see Figure 3 of Okubo et al)).

9. Applicant states (page 4) that instant claim 1 requires a passive cooling step in which the filament bundle is cooled through self-suction of a cooling medium. Examiner agrees that instant claim 1 does require such a step, and that this step is taught by Hutter et al. However, instant claim 1, as presently written, is not limited to only a passive cooling step in the second cooling zone and does not exclude any other type (e.g., non-passive) of cooling step (instant claim 1 is written in open language (i.e., "comprising"); at least pages 1 and 2 of the instant specification provide support for other types of cooling steps; instant claim 1 was preliminarily amended to remove the word "essentially" from the penultimate line).

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing

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date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leo B. Tentoni whose telephone number is (571) 272-1209. The examiner can normally be reached on Monday - Friday (6:30 A.M. - 3:00 P.M.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina A. Johnson can be reached on (571) 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Leo B. Tentoni/
Primary Examiner, Art Unit 1791